

## OFFICE OF THE TOWN ADMINISTRATOR

30 Providence Road Grafton, MA 01519 (508) 839-5335

Inspector of Buildings: Robert S. Berger bergerr@grafton-ma.gov www.grafton-ma.gov

### RECEIVED

JAN - 2 RECTO

PLANNING BOARD GRAFTON, MA

TO: Town Planner Joseph Laydon

FROM: Inspector of Buildings / Zoning Enforcement Officer Robert S. Berger

RE: Clarification for 34 Elm Street for potentially buildable lot on a non-conforming lot

DATE: January 2, 2020

Attached is a document "Zoning Determination Request for Potentially Buildable Lot Review" with supporting documentation.

- 1. Earliest deed that was submitted to the Building Department for review dated July 21, 1944.
- 2. First Zoning By-Law excepted by the Town of Grafton Massachusetts April 25, 1956.
- 3. In my opinion this lot has protection under the MGL Section 6 and is considered a pre-existing nonconforming lot which can be built upon for a one or two family dwelling as long as building upon such lot is not prohibited by the zoning by-laws in effect in a city or town which it is not prohibited.
- 4. For two family dwelling in this zoning district requires a special permit from the Planning Board.

EXHIBIT 11





#### TOWN OF GRAFTON

GRAFTON MEMORIAL MUNICIPAL CENTER 30 PROVIDENCE ROAD GRAFTON, MASSACHUSETTS 01519

Phone: (508) 839-5335 ext 1190 • FAX: (508) 839-4602

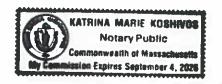
www.grafton-ma.gov

# ZONING DETERMINATION REQUEST FOR POTENTIALLY BUILDABLE LOT REVIEW TO BE COMPLETED BY APPLICANT

Please provide the following information for all ot to ber eviewed for Potentially Buildable Lot pursuant to Zoning Grafton By-Law:

1.	Owner(s) Name (per current deed): KAREN R DOMENICO (List on separate page if needed)
2.	Agent Name (if applicable):_SOTIR_PAPALILO
	Address: P.O. Box 280 Shrewsbury MA 01545 Phone: 508-922-1467 (Notarized Letter of Authorization if Agent is Used)
3.	Submit each of the following: a) Current certified survey based on recent abstract of title; b) Proof of legal access; and c) Copy of earliest recorded deed describing the subject lot.
4.	Has this lot ever been under common ownership with any adjacent lots Yes No
5.	Property Address: 34 ELM STREET
	Property ID: 010.0-0000-0005.0
6.	I, SOTIR PAPALILO certify that the information contained/attached to this application is correct to the best of my knowledge and belief.  (Owner s/Agent's Signature)  Date
known	RE ME, the undersigned authority, personally appeared who is/are personally to me or who has/have produced as identification and who executed the ing instrument for the uses and purposes therein expressed.
Sworn	to and subscribed before me this 2nd day of January, 2020.

Page 1 of 2



#### (Notary Public Name) (Seal)

LOT REVIEW NUMBER	12302019	(Staff Use Only
(DO NOT WI	RITE ON THIS PAGE. STAFF US	

## REQUEST FOR POTENTIALLY BUILDABLE LOT REVIEW (CONTINUED)

1.	ZONING RI	EVIEW			
	Date of Red	corded Deed//	Agreement For I	Deed_July 21, 1944	_
	Legal Acces	ss: Yes_ 🗸	No		
	Such lot sha	all not be built	t upon unless it i	meets the criteria contained in	G.L. C
	40a, §6, or	section 3.4.1.	2 herein Yes_	No	
(	(ZONING RI	EVIEWER / D	ATE)	1/2/202	20
2.	<u>FINDING</u>	2. First Zoning By-L 3. In my opinion this nonconforming lot v is not prohibited by	aw excepted by the Town to lot has protection under which can be built upon fo the zoning by-laws in effo	uilding Department for review dated July 21, 19- yn of Grafton Massachusetts April 25, 1956, r the MGL Section 6 and is considered a pre-ex- or a one or two family dwelling as long as buildli- fect in a city or town which it is not prohibited. rict requires a special permit from the Planning 8	isting ng upon such lot
	APPROVAL	. 🗸	DENIAL:		

Grafton Zoning By-Law Section 1.3.6.2 Any person aggrieved by reason of his inability to obtain a permit or enforcement action from the Inspector of Buildings or other administrative officer under the provisions of this By-Law, or any person including an officer or board of the Town, aggrieved by an order of decision of the Inspector of Buildings, or other administrative officer, in violation of the provisions of Chapter 40A of the General Laws or any provision of this By-Law, may file an appeal in accordance with the provisions of Chapter 40A of the General Laws.

**COMMENTS:** 

#### **GRAFTON ZONING BY-LAWS**

- 3.4 Non-Conforming Conditions
- 3.4.1 Lots: A lot that does not conform to the intensity requirements of this By-Law shall be governed by the following provisions:
- 3.4.1.1 Such lot shall not be built upon unless it meets the criteria contained in M.G.L. c 40A, §6, or Section 3.4.1.2 herein.
- 3.4.1.2 Any lot lawfully laid out by plan or deed duly recorded, as defined in G.L. c. 41, § 81L, or any lot shown on a plan endorsed with the words "approval under the subdivision control law not required" or words of similar import, pursuant to G.L. c. 41, §81P, which complies at the time of such recording or such endorsement, whichever is earlier, with the minimum area, frontage, width and depth requirements, if any, of the Grafton Zoning By-Law in effect in the Town of Grafton where the land is situated, notwithstanding the amendment of provisions of the Zoning By-Law imposing minimum area, frontage, width, depth, or yard requirements, or more than one such requirement, in excess of those in effect at the time of such recording or endorsement: (1) may thereafter be built upon for one or two-family residential use if, at the time of the adoption of such requirements or increased requirements, or while building on such lot was otherwise permitted, whichever occurs later, such lot was held in ownership separate from that of adjoining land located in the same district, or, (2) may be built upon for one or two-family residential use for a period of five years from the date of such recording or such endorsement, whichever is earlier, if, at the time of the adoption of such requirements or increased requirements, such lot was held in common ownership with that of adjacent land located in the same district; and further provided in either instance, at the time of building: (a) such lot has an area of seven thousand five hundred square feet or more and a frontage of seventy-five feet or more in a district zoned for one or two-family residential use, and conforms except as to area, frontage, width, and depth with the applicable provisions of the Grafton Zoning By-Law in effect in the Town, and, (b) any proposed structure is to be located on such lot so as to conform with the minimum requirements of front, side, and rear yard setback, if any, in effect at the time of such recording or such endorsement, whichever is earlier, and to all other requirements for such structure in effect at the time of building.

#### M.G.L. c 40A,§6

Any increase in area, frontage, width, yard, or depth requirements of a zoning ordinance or by-law shall not apply to a lot for single and two-family residential use which at the time of recording or endorsement, whichever occurs sooner was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand square feet of area and fifty feet of frontage. Any increase in area, frontage, width, yard or depth requirement of a zoning ordinance or by-law shall not apply for a period of five years from its effective date or for five years after January first, nineteen hundred and seventy-six, whichever is later, to a lot for single and two family residential use, provided the plan for such lot was recorded or endorsed and such lot was held in common ownership with any adjoining land and conformed to the existing zoning requirements as of January first, nineteen hundred and seventy-six, and had less area, frontage, width, yard or depth requirements than the newly effective zoning requirements but contained at least seven thousand five hundred square feet of area and seventy-five feet of frontage, and provided that said five year period does not commence prior to January first, nineteen hundred and seventy-six, and provided further that the provisions of this sentence shall not apply to more than three of such adjoining lots held in common ownership. The provisions of this paragraph shall not be construed to prohibit a lot being built upon, if at the time of the building, building upon such lot is not prohibited by the zoning ordinances or by-laws in effect in a city or town.

248

North Grai	Cton Wordes ter County, Massachusetts,
and wife as to	Tion Wordester County, Massachusetts, ration paid, grant to Robert W. Bull and Ruth M. Bull, husband phants by the entirety, both
Grafton, Wor	cester County, Massachusettswith marranty covenants
	therly part of said Grafton, on the northerly side of sailed, more particularly bounded and described as Described as
BEGINNING	at a point in the northerly line of said Street which is distant one hundred sixty-five and five tenths (165.5) feet westerly, as measured on said line, from the intersection of said line of Elm Street with the westerly line of Cross Street;
THENOE	N. 18° 50' E. one hundred fifty (150) feet by land now or formerly of the estate of Charles H.Nelson;
THENCE	S. 70° 12' W. one hundred fifteen and eight tentha (115.8) feet to an iron pin;
THENCE	8. 18° 50' W. eighty-five (85) feet, more or less, to said Elm Street;
THENCE	easterly one hundred (100) feet, more or less, by said Elm Street to the place of beginning.
BEI NG	the same premises conveyed to us by deed from Philip H. Wing, dated July 24th, 1943 and recorded with Worcester District Registry of Deeds, Book 2893, Page 295.
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AND POCCO EXTENDING TO THE POCCO EXTENDING TO	NOCH TAKEN OF THE PROPERTY OF
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4 (	This book of the twenty-first day of July 1944  L. Mary.  L. Mary.

Rec'd Aug. 15, 1944 at 10h. 7m. A. M. Ent'd & Ex'd.

A CONTRACTOR OF THE PARTY AND THE PARTY AND

221

of Grafton,

Worcester County, Massachusetts,

being unmarried, for consideration paid, and in full consideration of \$2500.00

grants to

Richard E. Bradish

of 363 Providence Road, South Grafton, Mass. with quitclaim community the land in the northerly part of Grafton, Worcester County, Massachusetts, on the northerly side of Elm Strast, and more particularly bounded and described as follows: Wordencesterstand

BEGINNING at a point in the northerly line of said Street which is distant 165.5 feet westerly as measured on said line from the intersection of said line of Elm Street with the westerly line of Cross Street;

THENCE N. 18° 50' E. 150 feet by land now or formerly of the estate of Charles H. Nelson;

THENCE S. 70° 12' W. 115.8 feet to an iron pin;

THENCE S. 18° 50' W. 85 feet more or less to said Elm Street;

THENCE easterly 100 feet more or less by said Elm Street to the place of beginning.

BSING the same premises conveyed to me and my late wife, Helen K. Maynard, by deed of Robert W. Bull, et ux, dated April 8, 1957 and recorded with Worcester District Registry of Deeds, Book 3854, Päge 308.

COMMONWEALTH OF MASSACHUSETIS

TO STATE OF STATE OF THE S

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Witness my hand and seal this To the day of March 19.12

The Commonwealth of Massachusetts

Worcester, 4

March 14, 1972

Then personally appeared the above named Raymond J. Maynard

and acknowledged the foregoing instrument to be

his \_ free act and deed, before m

George Moore, Notary Public - Strikes With Date

My commission expires January 26, 197

Recorded Aug. 10, 1972 at 1h. 58m. P. M.

Consolidated Grantor Index Worcester District Registry 1956-1960

RECORDED GRANTORS GRANTEES Book Profes BOOK P

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I, Richard E. Bradish

of North Grafton, Worcester

County, Massachuserts

being Emmarried, for consideration paid, and in full consideration of \$20,500.00

granzen Jon A. Francesco and Kathleen A. Francesco, husband and wife, \*xx as tenasts by the entirety.

of Elm Street, Grafton

with gultelalm covenauts

the land in the northerly part of Grafton, Worcester County, Massachusetts, on the northerly side of Elm Street, and more particularly bounded and described as follows: (Docciption and corumbiance, if any)

BEGINNING at a point in the northerly line of said streat which is distant 165.5 feet westerly as measured on said line from the intersection of said line of Elm Street with the westerly line of Gross Street;

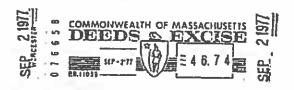
THENCE N. 18° 50' E. 150 feet by land now or formerly of the estate of Charles H. Nelson;

THENCE S. 70° 12' W. 115.8 feet to an iron pin;

THENCE S. 18° 50' W. 85 feet more or less to said Elm Street;

THENCE easterly 100 feet more or less by said Elm Street to the place of beginning.

Being the same premises described in a deed from Raymond J. Maynard to Richard E. Bradish dated March 14, 1972 and recorded with the Worcester District Registry of Deeds Book 5249, Page 221.



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Worcester, ss.	ų.	_	المنا المنز المسا	die 1s	19 77
Then personally appeared the above named	Richa	rd E. Bra	•		4
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and acknowledged the foregoing instrument to be	his		ect and deed, b	Mon	<u>/</u> Waterak
		My Commission	Espine Janu	ary 22.	uy 82

Recorded SEP 2 1977 at 2-h. 9 m. P.M.

WE, JON A. FRANCESCO and KATHLEEN A. FRANCESCO, humbond and wife

of North Grafton, Worcester

County, Massachusetts

being mannarried, for consideration paid, and in full consideration of Twenty-Nine Thousand Three Hundred (\$29, 300.00)------Dollars

grants to FRANCE H. MOUTON, individually

of 34 Elm Street, North Grafton, Ja.

with quitclatur covenants

the land in on the northerly part of Grafton. Morcester County Massachusetts. on the northerly side of !!In Street, and nore particularly bounded and described as follows:

BEGINNING at a point in the northerly line of said street which is distant One Hundred Sixty-five and five tenths (155.5) feet westerly as measured on said line from the intersection of said line of Elm Street with the westerly line of Cross Street;

THENCE N.  $16^{\rm O}$  50° E. One Hundred Fifty (150) feet by land now or formerly of the estate of Charles H. Nelson;

THENCE S. 700 12' W. One Hundred Fifteen and eight (115.8) tenths feet to an iron pin;

THENCE S. 16° 50' W. Eighty-five (85) feet more or less to said Elm Street;

THENCE easterly One Hundred (100) feet more or less by said Elm Street to the place of beginning.

Being the same premises conveyed to us by deed of Richard E. Bradish. dated September 1, 1977 and recorded with the Worcester District Registry of Deads in Book 6279, Page 213.



Wifness . Our	nand and scal	this July	day of	August	. 19 78
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	4		Jon A. Fra	incesco ,,	*** ********
		7	Kathleen A	Francesco	1. X C CV.C
		9.5000 5401	***************************************		*****
		24			
					•
	The Comm	nanwealth of C	iassachusetts -		
Worcester	\$5.			August 24	, 19 78
Then personally	appeared the above nam	ed			
			. Francesco		
and acknowledged the	e foregoing instrument t		Gaulen	deed, before me	il
		Pauline	A. Gasek	Notary Public 4 June	entherent
				1164 11	10 PU

Recorded Aug 2 1 1978 at / 6.13 m. Alv

Grafton, North Street. 덥 I, FRANCE H. MOUTON,

of North Grafton,

Worcester

County, Massachusetts

being unmarried, for consideration paid, and in full consideration of Thirty-Five Thousand Dollars (\$35,000.00)

grant to FREDA BETH BRANOWICKI, individually,

of 34 Elm Street, North Grafton, Massachusetts with quitrinim copranuts.

with buildings thereon, situated the landing /in the northerly part of Grafton, Worcester County, Massachusetts, on the northerly side of Elm Street, and more particularly bounded and described as CHANGE CONTROLLY (AME) follows:

BEGINNING at a point in the northerly line of said street which is distant One Hundred Sixty-five and five tenths (165.5) feet westerly as measured on said line from the intersection of said line of Elm Street with the westerly line of Cross Street;

THENCE N. 180 50' E. One Hundred Fifty (150) feet by land now or formerly of the estate of Charles H. Nelson:

THENCE S. 70° 12' W. One Hundred Fifteen and eight tenths (115.8) feet to an iron pin;

THENCE S. 180 50' W. Eighty-five (85) feet more or less to said Elm Street;

THENCE easterly One Hundred (100) feet more or less by said Elm Street to the place of beginning.

HEING the same premises conveyed to me by deed of Jon A. Francesco and Kathleen A. Francesco, husband and wife, dated August 24, 1978, and duly recorded with the Worcester District Registry of Deeds in Book 6546, Page 148.

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Witness EY. hand	and seal	this	2714	day of	March,	1980	
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#### The Commonwealth of Causachunetts

Worcester

March 27.

Then personally appeared the above named

France H. Mouton

free set and dred and acknowledged the foregoing instrument to be

> Alan F. Dodd Noter Public SCOOLINGS

My commission cepter January, 29, 116

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#### CHAPTER 183 SEC. 4 AS AMENDED BY CHAPTER 497 OF 1969

Every dead persented for record shall contain or have endured upon it the full name, excludence and post office address of the practice and a recital of the amount of the full consideration thereof in dollars or the nature of the other consideration therefor, if ant delivered for a specific monetary sum. The full consideration shall areas the total price for the recoverance videout deduction for any times or ensuranteers assumed by the granter or remaining thereon. All such endorsements and rockels shall be recorded as part of the deed. Failure to comply with this section shall not affect the validity of any deed. No register of deeds shall occup a dead for considing where it is no compliance with the requirements of this section.

Recorded MAR 27 1989 at On. 6 m AM

67912

#### **QUITCLAIM DEED**

I. Freda Beth Branowicki

of 34 Elm Street, North Grafton, Worcester County, Massachusetts

for consideration paid One Hundred Twenty-Eight Thousand and 00/100 Dollars (128,000.00)

grant to Karen R. Domenico of 16 Cherry Street, Fayville, MA

the land with the buildings thereon situated in the Northerly part of Grafton, Worcester County, Massachusetts, on the Northerly side of Elm Street, and more particularly bounded and described as follows;

BEGINNING at a point in the northerly line of said street which is distant One hundred sixty-five and five tenths (165.5) feet westerly as measured on said line from the intersection of said line of Elm Street with the westerly line of Cross Street;

Thence N. 18° 50' E. One Hundred Fifty (150) feet by land now or formerly of estate of Charles H. Nelson;

Thence S. 70° 12' W. One Hundred Fifteen and eight tenths (115.8) feet to an iron pin;

Thence S. 18° 50' W. Eighty-Five (85) feet more or less to said Elm Street;

Thence easterly One hundred (100) feet more or less by said Elm Street to the place of beginning.

This conveyance is subject to the Grantee assuming and agreeing to perform all terms and obligations setforth in a certain Septic System Agreement by and between Grantor, Grantee and the Town of Grafton dated March 23, 1999 and recorded with the Worcester District Registry of Deeds in Book

Being the same premises conveyed to the grantor by deed of France H. Mouton and recorded with the Worcester District Registry of Deeds in Book 6947, Page 398.

Witness my hand(s) and seal(s) this 28 day of April, 1999

Freda Beth Branowicki

#### COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.,

Elm Steet, North Galtan Ma

April 28, 1999

Then personally appeared the above named Freda Beth Branowicki acknowledged the foregoing instrument to be her free, act and deed, before me

WORCESTER
DEEDS REG 20
WORCESTER
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FEE 1501.48

Robert A.-White-Notary Public My Commission Expires: 2/15/2002

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ATTEST: WORC. Anthony J. Vigilotti, Register

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